

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IRON MOUNTAIN INCORPORATED;
IRON MOUNTAIN INFORMATION
MANAGEMENT, INC.; C. RICHARD
REESE; JOHN F. KENNY, JR.; GARRY
B. WATZKE; LARRY L. VARN; and
CHARLES G. MOORE,

Plaintiffs,

v.

THOMAS CARR,

Defendants.

and

THOMAS CARR,

Counterclaim-Plaintiff,

v.

IRON MOUNTAIN INCORPORATED;
IRON MOUNTAIN INFORMATION
MANAGEMENT, INC.; C. RICHARD
REESE; JOHN F. KENNY, JR.; GARRY
B. WATZKE; LARRY L. VARN; and
CHARLES G. MOORE,

Counterclaim-Defendants.

Civil Action No. 05 10890 RCL

COUNTERCLAIM-DEFENDANTS' MOTION TO DISMISS
COUNTERCLAIM-PLAINTIFF'S FRAUDULENT MISREPRESENTATION CLAIM

Counterclaim-Defendants Iron Mountain Incorporated ("Iron Mountain"), Iron Mountain Information Management, Inc. ("IMIM"), C. Richard Reese ("Reese"), John F. Kenny, Jr. ("Kenny"), Garry B. Watzke ("Watzke"), Larry L. Varn ("Varn") and Charles G. Moore

(“Moore” and collectively with the foregoing persons and entities, the “Plaintiffs”) respectfully move to dismiss Count II (Fraudulent Misrepresentation) of the First Amended Counterclaims (the “Counterclaims”) of defendant and counterclaim-plaintiff Thomas Carr, for failure to state any claim upon which any relief could possibly be granted. The grounds for this motion are more fully set forth in the Plaintiffs’ accompanying memorandum of law.

WHEREFORE, the Plaintiffs respectfully request that this Court enter an order dismissing Count II (Fraudulent Misrepresentation) of the Counterclaims against them with prejudice.

Respectfully submitted,

**IRON MOUNTAIN INCORPORATED;
IRON MOUNTAIN INFORMATION
MANAGEMENT, INC.; C. RICHARD
REESE; JOHN F. KENNY, JR.; GARRY
B. WATZKE; LARRY L. VARN; and
CHARLES G. MOORE**

By their attorneys,

May 31, 2005

/s/ Samual A. Miller
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CERTIFICATE OF SERVICE

I hereby certify that I have on this 31st day of May, 2005, served on counsel listed below, by first class mail (unless counsel receives electronic service by the Court), a true and correct copy of the foregoing **Counterclaim-Defendants' Motion to Dismiss Counterclaim Plaintiffs' Fraudulent Misrepresentation Claim.**

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Read K. McCaffrey, Esq.
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/s/ Samuel A. Miller
Samual A. Miller

LOCAL RULE 7.1 CERTIFICATION

On May 31, 2005, I conferred by electronic mail with counsel for the Defendant and counsel for the Defendant did not assent to the relief requested in this motion.

/s/ Samuel A. Miller
Samual A. Miller